



**Federal Communications Commission  
Washington, D.C. 20554**

February 7, 2008

**DA 08-308**

*In Reply Refer to:*

1800B3-JP

Released: February 7, 2008

Michael Metter  
The Greenwich Broadcasting Corporation  
1490 Dayton Avenue  
Greenwich, CT 06830

In re: WGCH(AM), Greenwich, Connecticut  
The Greenwich Broadcasting Corporation  
Facility ID: 65674  
File No. BR-20051201CIS

**Application for Renewal of License**

Dear Mr. Metter:

We have before us the captioned application (the "Application") of The Greenwich Broadcasting Corporation ("GBC") for renewal of license for Station WGCH(AM), Greenwich, Connecticut. We also have before us Informal Objections ("Objections") filed by Valerie Stauffer, Richard and Jean Bergstresser, Charles Lanier Stone, and Kathy Harsany (collectively, the "Objectors") on February 10, 2006, February 27, 2006, February 1, 2006, and March 3, 2006, respectively. On October 2, 2006, GBC filed an Opposition to the Informal Objections ("Opposition"), and a Supplement to the Opposition to the Informal Objections on October 26, 2006. For the reasons set forth below we deny the Objections and grant the Application.

**Background.** GBC timely filed the Application on December 1, 2005. In the Objections, the Objectors claim that WGCH(AM)'s license should not be renewed because of the Station's minimal efforts to serve the local news coverage needs of the community. In particular, the Objectors are concerned with the Station's lack of local coverage during snow emergencies in January and February of 2006. In response, GBC states that "Station WGCH strives to provide a significant contribution to the local public's news and general informational needs, and public reaction (in the form of local ratings and advertiser support) demonstrates that the licensee is succeeding in its efforts."<sup>1</sup> GBC also states that the Commission recognizes that licensees have wide discretion in the area of news programming, and that the Objectors have not made a showing that GBC has "consistently and unreasonably ignored matters of public concern."<sup>2</sup>

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<sup>1</sup> Opposition at 4.

<sup>2</sup> *Id.*

**Discussion.** Pursuant to Section 309(e) of the Act,<sup>3</sup> informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,<sup>4</sup> which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.<sup>5</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>6</sup>

The Objectors do not claim that GBC has violated the Act or any of the Commission’s Rules. Their core complaint is the lack of local news coverage on WGCH(AM). GBC states that WGCH(AM) is a twenty-four hour news and information station, providing at least three and a half hours of local news programming each day.<sup>7</sup> While we recognize the Objectors’ concerns about the quality of WGCH(AM)’s programming, the role of the Commission in overseeing program content is limited. The First Amendment to the United States Constitution<sup>8</sup> and Section 326 of the Act<sup>9</sup> prohibit the Commission from censoring program material or interfering with broadcasters’ free speech rights. Generally, the Commission will not take adverse action on a license renewal application based upon the subjective determination of a listener or group of listeners as to what constitutes appropriate programming.<sup>10</sup> A licensee has broad discretion to choose, in good faith, the programming that it believes serves the needs

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<sup>3</sup> 47 U.S.C. § 309(e).

<sup>4</sup> 47 U.S.C. § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

<sup>5</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

<sup>6</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>7</sup> Opposition at 3, and Attachment 1, Program Schedule.

<sup>8</sup> U.S. CONST. amend. I.

<sup>9</sup> Section 326 of the Act states in part: “Nothing in this chapter shall be understood or construed to give the Commission the power of censorship ... and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.” 47 U.S.C. § 326

<sup>10</sup> See *WGBH Educational Foundation*, Memorandum Opinion and Order, 69 FCC 2d 1250, 1251 (1978).

and interests of the members of its audience.<sup>11</sup> We will intervene in programming matters only if a licensee abuses that discretion.<sup>12</sup> The Objectors have not demonstrated that the station has done so here.

Furthermore, we have evaluated the Application pursuant to Section 309(k) of the Communication's Act of 1934, as amended,<sup>13</sup> and we find that: (1) station WGCH(AM) has served the public interest, convenience, and necessity during the subject license term; (2) there have been no serious violations of the Communications Act or the Commission's rules; and (3) there have been no other violations, which taken together, constitute a pattern of abuse.

**Conclusion**. For the above-stated reasons, the Informal Objections filed by Valerie Stauffer, Richard and Jean Bergstresser, Charles Lanier Stone, and Kathy Harsany ARE DENIED and the application (File No. BR-20051201CIS) of The Greenwich Broadcasting Corporation for renewal of license for station WGCH(AM), Greenwich, Connecticut IS GRANTED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Dan J. Alpert, Esq.  
Valerie Stauffer  
Richard and Jean Bergstresser  
Charles Lanier Stone  
Kathy Harsany

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<sup>11</sup> See, e.g., *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (1993) ("Philadelphia Station License Renewals") (citing *Time-Life Broadcast, Inc.*, Memorandum Opinion and Order, 33 FCC 2d 1081, 1082 (1972), and *Office of Communications of United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983) (subsequent history omitted)).

<sup>12</sup> *Philadelphia Station License Renewals* at 6401.

<sup>13</sup> 47 U.S.C. § 309(k)(1).